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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,612	11/26/2003	Kevin Robert Sandieson	LTTKP0111US	7086

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EXAMINER

ASINOVSKY, OLGA

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 02/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/722,612

Applicant(s)

SANDIESON ET AL.

Examiner

Olga Asinovsky

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 1-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 03/08/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Application No. 10/722,612 has been transferred from Art Unit 1732 to other Art Unit 1711. The new examiner is Olga Asinovsky (telephone: (571-272-1066).

Election/Restrictions

2. Applicant's election without traverse of Group II, claims 22-33 in the reply filed on 01/04/2006 is acknowledged.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 22-24, 26-27 and 31-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Needman U.S. Patent 3,846,360.

Needham discloses pigment concentrates comprising inorganic or organic pigments distributed uniformly throughout the plastic materials, column 1, lines 47-51. Pigments are incorporated into a carrier material for producing pigment concentrate for coloring a polymeric material. The carrier material is consisting essentially of at least first polymeric material including polyethylene in the range of 15 to about 70 wt.%, claim 1 at column 6. Step of producing the color concentrates=pigment concentrates in Needham invention is readable in the present claims for being a color compound comprising a first

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polymeric material. The pigment concentrate in Needham invention is readable in the present claim 32. The color concentrate=pigment concentrate is comminuted and said pigment concentrate can be incorporated in the plastic masses to be colored, column 4, lines 45-55. Comminuted pigment concentrate comprising polyethylene as a binder material is readable in the present claim 33. The plastic masses suitable for coloring include hard and soft PVC, high and low pressure polyolefins such as HDPE, LDPE, PP, polystyrene, polyvinyl acetate, natural and synthetic rubbers, polycarbonates, polyesters, polyamides and the like as well as blends thereof, column 4, lines 56-64. The plastic masses are readable for being the second polymeric material in the present claims. The plastic masses can have no pigment or different color than the colored concentrate. The polymeric materials include polyolefins, column 1, line 57-58, including high and low pressure polyolefins, column 4, lines 59-60, for the present claims 22 and 27. The plastic masses as the second polymeric materials can be different from polyolefins as a first polymeric material, for the present claim 22. Also, the plastic materials as polyolefins can be the same for the first and second polymeric materials, for the present claims 26-27 and 31. The plastic materials include any resinous materials which can be used in the preparation of shaped articles, column 3, lines 17-21. A molded article in the claimed invention is fully anticipated by the disclosure in Needham invention.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 25 and 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Needham U.S. 3,846,360 as applied to claims 22-24, 26-27 and 29-33 above.

Needham does not disclose that the resulting colored plastic material is free of one or more of additives, fillers, dispersion aids, solvents and/or modifiers limited in the present claim 25. It would have been obvious to one of ordinary skill in the art to consider that the molded article can be produced in Needham invention wherein one or more ingredients specified in the present claim 25 can be excluded from the resulting colored plastic material since the presence of these ingredients are depending on the desired physical properties and the desired application for the intended use of said resulting composition.

Needham does not disclose the specified density for the first polymeric material and the second polymeric material being in a range from about 0.924 to about 0.942.

However, in the working example 1 at column 5, Needham discloses a PE having a density of 0.917.

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It would have been obvious to one of ordinary skill in the art to consider that a polyethylene in Needham invention having a density of at least 0.924 can be employed because using the specified density of PE is depending on the process conditions and type of the equipment/extruder for uniformly distributing throughout a polymeric material at a pigment concentration, and since Needham discloses a closest density of PE of 0.917, and also, Needham discloses a high density of PE wherein a density of at least 0.924 belongs to a high density PE (low pressure PE).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art has been considered.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olga Asinovsky whose telephone number is 571-272-1066. The examiner can normally be reached on 9:00 to 5:30 pm.

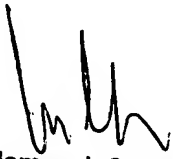
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

D.A.

February 02, 2006


James J. Seidleck
Supervisory Patent Examiner
Technology Center 1700